APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,914	11/26/2003	Israel Raz	132076UL	1899

7590	08/25/2006

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EXAMINER
MARTINEZ, DAVID E

ART UNIT	PAPER NUMBER
2181	

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 June 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>30 January 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claims 1, in lines 6-8, the term "wherein the first memory stores the data object for a longer term than the second memory" is unclear. It isn't understood if the applicant is referring to a time window that could expire, or a memory property such as those of volatile and non-volatile memory.

With regards to claims 9 and 17, they suffer from the same deficiencies as claim 1 above and thus are rejected under the same rationale.

With regards to claim 5, line 3, the term "instructing to print; text, report, images" renders the claim indefinite. It is not clear if the "instructing to" instruction applies to the "text, report and images" or not.

Claims 2-8, 10-16, and 18-20 due to their dependency from parent claims 1,9 and 17 respectively, they suffer from the same deficiencies and thus are rejected under the same rationale.

Due to the vagueness and a lack of clear definiteness in the claims, the claims have been treated on their merits as best understood by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5-10 and 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,023,343 to Hoang et al. (hereinafter Hoang)

1.   With regards to claims 1, 9 and 17, Hoang teaches a method for managing outputs to peripheral devices in medical systems devices, said method comprising:

providing an instruction to control a peripheral [fig 1 elements 24 and 26 send print jobs (data objects) to a printer element 10, column 6 lines 45-59];

creating a data object based on the instruction [fig 1 elements 24 and 26 send print jobs (data objects created by host elements 24 and 26 – "input devices") to a printer element 10, column 6 lines 45-61];

storing the data object in a second memory to be output to the peripheral device [fig 1 RAM memory element 34, column 7 lines 38-48, column 8 lines 3-7, lines 19-30, 47-55, column 3 lines 3-22] and

storing the data object in a first memory [fig 1, hard drive element 38] if the peripheral device [fig 1 element 36] is not available to accept the data object [column 7 lines 38-48, column 8 lines 3-7, lines 19-30, 47-55, column 3 lines 3-22], wherein the first memory [fig 1, hard drive element 38] stores the data object for a longer term than a second memory [fig 1 RAM memory element 34].

Furthermore, claim 1 above calls for the peripheral device being used in medical system devices. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

2.   With regards to claims 2, 10 and 18, Hoang teaches a method in accordance with claim

1 further comprising:

        determining whether the peripheral device is available to accept the data object []; and

        transferring the data object from the second memory [fig 1 RAM memory element 34] to

the first memory [fig 1, hard drive element 38] upon determining that the peripheral device [fig 1

element 36] is not available [column 7 lines 38-48, column 8 lines 3-7, lines 19-30, 47-55,

column 3 lines 3-22].

3.   With regards to claims 5 and 13, Hoang teaches a method in accordance with claim 1

wherein said providing the instruction to provide the output comprises one of [←Please Note the

Alternative Language]:

        instructing to print [fig 1 elements 24 and 26 send print jobs (data objects created by

host elements 24 and 26 – "input devices") to a printer element 10, column 6 lines 45-61]; text,

report, images,

        instructing to record to a video cassette recorder;

        instructing to electronically mail a copy of images to a remote location;

        instructing to create a copy of the images on one of a floppy disk, a magneto-optical

disk, a CD, a DVD, a flash memory card, and a digital versatile disc; and

        instructing to create a copy of a patient's information on the digital versatile disc.

4.   With regards to claims 6 and 14, Hoang teaches a method in accordance with claim 1

wherein said creating the data object based on the instructions comprises one of [←Please

Note the Alternative Language]:

        creating a first data object that instructs to print [fig 1 elements 24 and 26 send print jobs

(data objects created by host elements 24 and 26 – "input devices") to a printer element 10,

column 6 lines 45-61];

creating a second data object that instructs to record to a video cassette recorder;

creating a third data object that instructs to electronically mail a copy of images to a remote location;

creating a fourth data object that instructs to create a copy of images on one of a floppy disk, a magneto-optical disk, and a digital versatile disc; and

creating a fifth data object that instructs to create a copy of a patient's information on the digital versatile disc.

5.   With regards to claims 7 and 15, Hoang teaches a method in accordance with claim 1 wherein said storing the data object in the first memory if the peripheral device that provides the output is not available to accept the data object comprises:

storing the data object in the first memory if the peripheral device that provides the output is at least one of deenergized and unoperational [column 7 lines 38-48, column 8 lines 3-7, lines 19-30, 47-55, column 3 lines 3-22].

6.   With regards to claims 8 and 16, Hoang teaches a method in accordance with claim 1 wherein a processor is configured to create the data object based on the instructions and wherein said storing the data object in the first memory if the peripheral device that provides the output is not available to accept the data object comprises: storing the data object in the first memory if the peripheral device that provides the output is operationally de-coupled from the processor [column 7 lines 38-48, column 8 lines 3-7, lines 19-30, 47-55, column 3 lines 3-22].

7.   With further regards to claim 9, Hoang teaches an imaging system comprising:

a source for transmitting signals [fig 1 elements 24 and 26 send print jobs (data objects created by host elements 24 and 26 – "input devices") to a printer element 10, column 6 lines 45-61]; and

a processor operationally coupled to said source [fig 1 element 14], said processor

configured to do the steps as claim 1 above and thus rejected under the same rationale.

8.   With further regards to claim 11, Hoang teaches an imaging system in accordance with

claim 9 wherein said processor is configured to perform one of:

automatically obtain the data object from said first memory [column 11 lines 25-39 and

50-63].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 3, 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent No. 6,023,343 to Hoang et al. (hereinafter Hoang) in view of US Patent Application

Publication No. US 2003/0053109 A1 to Lester et al. (hereinafter Lester).

9.   With regards to claims 3, 11 and 19, Hoang is silent as to enabling a user to access the

data object from the first memory. However, Lester teaches enabling a user to access a data

object from a memory for the benefit of having full control of the data at any time [figs 5 and 6,

paragraphs 2, 30 and 31].

It would have been obvious to one of ordinary skill in the art at the time of the invention

to combine the teachings of both Hoang and Lester to enable a user to access the data object

from the first memory for the benefit of having full control of the data at any time.

Claims 4, 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent No. 6,023,343 to Hoang et al. (hereinafter Hoang) in view of US Patent Application

Publication No. US 2002/0063880 A1 to Raney.

10.   With regards to claims 4, 12 and 20, Hoang is silent as to a method in accordance with

claim 1 further comprising: acknowledging that the data object is received by the peripheral

device if the data object is received by the peripheral device, however, teaches acknowledging

that a data object is received by a peripheral device if the data object is received by the

peripheral device for the benefit of providing important information to a user for the purpose of

enabling the user to rectify and avoid problems [paragraphs 25, 6].

It would have been obvious to one of ordinary skill in the art at the time of the invention

to combine the teachings of Hoang and Raney to acknowledge that the data object is received

by the peripheral device if the data object is received by the peripheral device for the benefit of

providing important information to a user for the purpose of enabling the user to rectify and

avoid problems.

Response to Arguments

Applicant's arguments filed 6/8/06 have been fully considered but they are not

persuasive.

With regards to Applicant's arguments directed to claim 1 on remarks page 10 – second

paragraph, the Examiner respectfully disagrees. The scope of the argument directed to the

"determination of whether the printer device is available" does not commensurate with the scope

of the claim. Applicant is arguing a different limitation that what the claim calls for. The claim

calls for a determination of whether a peripheral device (i.e. a printer in the Hoang reference) is

not *available to accept the data object.* A peripheral being not available (such as a peripheral

not connected) is not the same as a peripheral being not available to accept data (such as a

connected peripheral that is busy performing some task/job at a particular time thus it cannot

accept data at that time). Hoang teaches the printer storing data in a hard drive when ram is

needed for printer resources (when a determination has been made that the printer is not

available to accept data due to the need for it to use its ram memory for printer resources) as

per the rejection above, thus anticipating the claimed limitation.

Claims 9 and 17 stand rejected under the same rationale used in the above analysis.

Claims 2-8,10-16 and 18-20 stand rejected due to their inherent deficiencies based from

the dependency from claims 1, 9 and 17 above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as

set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date
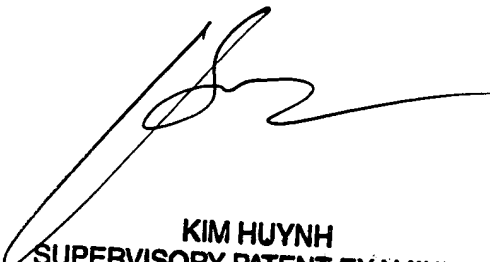
of this final action.

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to David E. Martinez whose telephone number is (571) 272-4152. The

examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Fritz M. Fleming can be reached on 571-272-4145. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you

would like assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DEM

KIM HUYNH
SUPERVISORY PATENT EXAMINER